

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permit 18870A (Application 25909A)
C. Mondavi & Sons, Inc.

**ORDER APPROVING CHANGE IN THE DISTRIBUTION OF STORAGE
AND AMENDING THE PERMIT**

SOURCE: Unnamed Stream (locally called Buhman Creek) tributary to Napa River thence
San Pablo Bay

COUNTY: Napa

WHEREAS:

1. Permit 18870A was issued to C. Mondavi & Sons, Inc., on May 2, 1983, pursuant to Application 25909A.
2. A petition to change the distribution of storage was filed with the State Water Resources Control Board (SWRCB) on July 26, 2000, and the SWRCB has determined that good cause for such change has been shown. Public notice of the change was issued on January 30, 2001, and protest issues have been resolved.
3. The SWRCB has determined that the petition for change in storage does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. In accordance with the protest resolution agreement between the petitioner and Clos Du Val Wine Co., existing permit condition 14 shall be amended and standard permit terms 47 and 51, modified per the agreement, shall be added to Permit 18870A.
5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. Additionally, the petitioner may be required to enter into a Stream/Lake Alteration Agreement with the California Department of Fish and Game. Appropriate standard permit terms, advising the permittee of possible related obligations or requirements, will be added to Permit 18870A.
6. There is the possibility that buried archeological deposits may be present and accidental discovery could occur. A condition should be included in the permit requiring that notification be given to the Chief of the Division of Water Rights if project activities uncover any buried archeological materials.

NOW, THEREFORE, IT IS ORDERED THAT PERMIT 18870A IS AMENDED TO READ AS FOLLOWS:

The Description of the Points of Diversion under Permit 18870A shall read as follows:

- (1) Point of Diversion to Storage in Reservoir #1: North 2,250 feet and West 1,100 feet from the SE corner of projected Section 18, T5N, R4W, MDB&M, being within the NE¼ of SE¼ of said Section 18, also described as North 222,900 feet and East 1,092,750 feet, Zone 2, California Coordinate System of 1927.
- (2) Point of Diversion to Storage in Reservoir #2: North 1,200 feet and West 1,100 feet from the SE corner of projected Section 18, T5N, R4W, MDB&M, being within the SE¼ of the SE¼ of said Section 18, also described as North 221,800 feet and East 1,092,750 feet, Zone 2, California Coordinate System of 1927.

Term 5 of Permit 18870A is amended to read as follows:

The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 138 acre-feet per annum to be collected from November 1 of each year to May 15 of the succeeding year as follows: 89 acre-feet per annum in Reservoir #1, 49 acre-feet per annum in Reservoir #2.

The permit does not authorize collection of water to storage outside the specified season to offset evaporation and seepage losses or for any other purpose.

Term 14 of Permit 18870A is amended to read as follows:

Permittee shall comply with the following provision included in the agreement between permittee and Beaulieu Vineyards and Granval Ltd.:

This permit is subject to the prior rights of Beaulieu Vineyards (currently held by Heublien Inc. under Licensed Application 24219A) and Granval Ltd. (currently held by Clos Du Val under Permitted Application 25561) and those of Peter Mondavi/ C. Mondavi & Sons under Licensed Application 25629.

The following standard water right terms 47 and 51 (as modified by protest resolution agreement) are added to Permit 18870A:

Permittee shall install and properly maintain staff gages in the reservoirs, which are satisfactory to the SWRCB, for the purpose of determining water levels in the reservoirs.

Permittee shall record the staff gage readings on or about October 1 of each year, and thereafter at least monthly during the remainder of the permitted diversion season, which begins on November 1 of each year and ends on May 15 of the succeeding year. Such readings shall be supplied to the SWRCB with the next progress report submitted to the Board by permittee.

The SWRCB may require the release of water that cannot be verified as having been collected to storage prior to October 1 of each year.

Permittee shall allow representatives of the following rights (Applications 23980, 24219A, 25561, and 25629), and all successors in interest, reasonable access to the reservoirs and to the permittee's recorded monthly staff readings for the purpose of verifying staff gage readings and determining water levels in the reservoirs and for determining whether water should be released in accordance with this permit.

(0070047)

Whenever the prior storage rights Licensed or Permitted under Applications 23980, 24219A, 25561, and 25629 are not satisfied by April 1 of any year, water collected to storage under this permit during the current collection season shall be immediately released at the maximum practicable rate to the extent necessary to satisfy said prior downstream storage rights. Permittee shall not be obligated to release water in the reservoir(s) below the previous October 1 staff gage reading unless permittee has withdrawn water from the reservoir for consumptive purposes since October 1.

(0000051)

The following Endangered Species, Stream/Lake Alteration Agreement, and Cultural Resources protection conditions are added to Permit 18870A:

This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

No work shall commence and no water shall be diverted, stored, or used under this certificate until permittee has entered into a Streambed Alteration Agreement with the California Department of Fish and Game. Compliance with the terms and conditions of said Agreement is the responsibility of the permittee.

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

(0000215)

All other terms and conditions of Permit 18870A are still applicable.

STATE WATER RESOURCES CONTROL BOARD

Teresa A. Whitney
for Chief
Division of Water Rights

Dated:

SEP 26 2003

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
ORDER

Application 25909A Permit 18870A License _____

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 18870A was issued to C. Mondavi and Sons on May 2, 1983 pursuant to Application 25909A.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board (SWRCB).
3. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 8 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 31, 2004

(0000008)


2. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 2006

(0000009)

Dated **JANUARY 24 1997**

for 
Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 25909A PERMIT 18870A LICENSE _____

ORDER CORRECTING THE DESCRIPTION FOR POINTS OF DIVERSION,
APPROVE A NEW DEVELOPMENT SCHEDULE, AND AMEND THE PERMIT

WHEREAS:

1. Permit 18870A was issued to C. Mondavi and Sons on May 2, 1983 pursuant to Application 25909A.
2. A November 8, 1989 staff inspection determined the description for the points of diversion (1) and (2) should be corrected.
3. The corrections are required to properly locate the two points of diversion within projected Section 18, T5N, R4W, MDB&M.
4. The Board has determined that said corrections of the descriptions for the points of diversion (1) and (2) will not constitute the initiation of a new right nor operate to the injury of any other lawful user of water and that good and sufficient cause has been shown for said corrections.
5. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board (Board).
6. The permittee has proceeded with diligence and good cause has been shown for the extension of time.
7. Permit Condition 11 pertaining to the continuing authority of the Board should be updated to conform to Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 2 of the permit regarding the description for the points of diversion be amended to read:

POD (1) - North 2,250 feet and West 1,100 feet from the SE corner of projected Section 18, T5N, R4W, MDB&M, being within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 18, also described under the California Coordinate System in Zone 2, N 222,900 and E 1,902,750. ⁴⁰⁰

POD (2) - North 1,200 feet and West 750 feet from the SE corner of projected Section 18, T5N, R4W, MDB&M, being within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 18, also described under the California Coordinate System in Zone 2, N 221,800 and E 1,902,750. (0000002)
2. Condition 8 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 31, 1991

(0000008)

3. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 1992

(0000009)

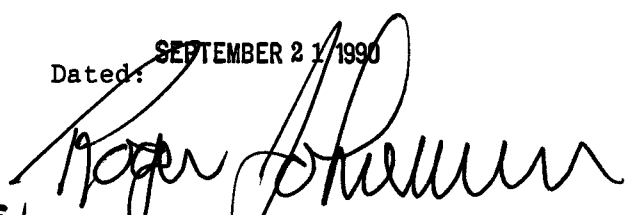
4. Condition 11 of the permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

Dated: SEPTEMBER 21 1990


Walter G. Pettit, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 18870A

Application 25909A of C. Mondavi and Sons
P. O. Box 191, St. Helena, California 94574

filed on January 29, 1979, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:	Tributary to:
(1,2) Unnamed Streams (2)	Unnamed Stream (aka Buhman Creek)
(3) Unnamed Stream (aka Buhman Creek)	Napa River thence
	San Pablo Bay

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
SEE ADDENDUM					

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Heat Protection						
Frost Protection						
Irrigation	NW ¹ / ₄ of SW ¹ / ₄	17	5N	4W	MD	1
	SW ¹ / ₄ of SW ¹ / ₄	17	5N	4W	MD	4
	SE ¹ / ₄	18	5N	4W	MD	124
	S ¹ / ₂ of NE ¹ / ₄	18	5N	4W	MD	12
	SE ¹ / ₄ of SW ¹ / ₄	18	5N	4W	MD	10
	N ¹ / ₂ of NE ¹ / ₄	19	5N	4W	MD	23
					Total	174

The place of use is shown on map filed with the State Water Resources Control Board.

ADDENDUM

1. Source:

Tributary to:

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
Storage in Reservoir No. 1 (1) North 2,200 feet and West 1,700 feet from SE corner of Projected Section 18	NW ¹ / ₄ of SE ¹ / ₄	18	5N	4W	MD
Storage in Reservoir No. 2 (2) North 850 feet and West 1,200 feet from SE corner of Projected Section 18	SE ¹ / ₄ of SE ¹ / ₄	18	5N	4W	MD
Diversion to Offstream Storage (3) North 1,000 feet and East 350 feet from SW corner of Projected Section 17	SW ¹ / ₄ of SW ¹ / ₄	17	5N	4W	MD
(4) Storage in Reservoir No. 4 (Offstream)	SE ¹ / ₄ of SE ¹ / ₄	18	5N	4W	MD

2/26/99 Asgnd. to C. Mondavi Inc.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 138 acre-feet per annum to be collected from November 1 of each year to May 15 of the succeeding year as follows: 40 acre-feet per annum in Reservoir #1, 49 acre-feet per annum in Reservoir #2, (3) 49 acre-feet per annum in Pit Reservoir #4.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

The maximum rate of diversion to offstream storage shall not exceed 3 cubic feet per second.

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

7. Construction work shall be completed by December 1, 1986.

8. Complete application of the water to the authorized use shall be made by December 1, 1987.

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

11. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable methods of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

13. The State Water Resources Control Board reserves jurisdiction over this permit to impose any appropriate conditions at some future date to conform the permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

(000 0020)

14. Permittee shall comply with the following provision which is also included in the agreement between permittee and Beaulieu and Granval executed on November 6, 1981:

This permit is subject to all prior rights of Beaulieu and Granval. (000 T001)

15. Permittee shall install and maintain outlet pipes of adequate capacity in his dams as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoirs which is not authorized for appropriation under this permit may be released. (0050043)

16. Permittee shall install and maintain in his reservoir a staff gage meeting the approval of the State Water Resources Control Board for the purpose of determining water levels in the reservoir. Permittee shall supply the staff gage reading on or about November 1 and on or about March 15 of each year, verified by protestant or his designated representative, to the State Water Resources Control Board. Permittee shall allow protestant or his designated representative reasonable access to the reservoir for the purpose of determining whether water should be released in accordance with this permit. In no event shall permittee be obligated to release water below the previous October staff gage reading. (007 0047)
(010 0047)

17. Diversion of water between March 15 and May 15 shall be subject to control under a water distribution program administered by the State Water Resources Control Board or by the Department of Water Resources at any time such a program is in effect at the project location.

- A. Diversion after March 15 is contingent upon participation in the water distribution program by the permittee.
- B. No diversion is allowed after March 15, except to replenish water stored prior to March 15, unless otherwise authorized by the water-master in charge of the distribution program.
- C. Prior to making diversions after March 15, permittee shall install and maintain a device, satisfactory to the watermaster, which is capable of measuring the instantaneous rate of diversion and the accumulative amount of water diverted during participation in the distribution program.
- D. Permittee's participation in any water distribution program required under the terms of this permit shall be evidenced by returning the information sheet distributed prior to the frost season and paying costs as apportioned at the end of the season.
- E. The water distribution program required under this permit may be revised periodically by the Board provided that the program shall be substantially consistent with terms of any water distribution program imposed on similarly situated users by the Napa County Superior Court. (000 0085)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated:

MAY 2 1983

STATE WATER RESOURCES CONTROL BOARD

L. O. Johnson
for Chief, Division of Water Rights